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Subject: SENT VIA ELECTRONIC MAIL

CQ531



Please see attachment. [NEPA Comments.doc](#)

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September 23, 2002

NEPA Task Force  
P.O. Box 221150  
Salt Lake City, UT 84122

## Comments on Improving and Modernizing NEPA.

The Council on Environmental Quality has requested comments (see Federal Register, Vol 67, page 45510) on improving and modernizing NEPA. Comments were specifically requested for six different questions (areas).

The J.R. Simplot Company is a privately held company (headquartered in Boise, Idaho) that has among its activities the mining of phosphate ore on public lands for the production of phosphate and nitrogen fertilizers. Thus, these mining projects go through the NEPA process. We have a very significant interest in NEPA being improved so that it is more efficient and effective. Thus, we offer a couple of comments for the NEPA Task Force to consider.

### **Question B: Federal and Inter-governmental Collaboration:**

Two comments are provided on federal and inter-governmental collaboration.

All of the federal agencies that are a part of the review and/or preparation of NEPA documents (such as a draft or final Environmental Impact Statement) need to be involved **at the beginning** of the process. All agencies need to commit to dedicate the resources to be involved at the start and to continue that involvement throughout the process. Several specific items need to be discussed at the start:

- Scope of the studies needed to define baseline.
- Scope of studies to determine impacts.
- What are the major concerns of the agencies?
- What alternatives or options need to be considered to deal with such concerns?

The problem is that some agencies do not get actively involved until near the end of the process (such as a draft EIS) and then new issues arise that need further study and investigation. In our experience, the issues and concerns that get raised at such stage in the process should have clearly been brought forward many months (or years) earlier in the process. The agencies need to be involved and stay involved.

Also, the federal agencies need to understand their role as compared to state agencies. At times, federal agencies are making demands or stating

requirements that are outside of their legal authority; instead the appropriate authority is a state or local agency. The federal agencies need to clearly understand their role and the boundaries of that role. In fact, at the start of the project, "roles" and jurisdiction should be defined for all the agencies involved.

CQ531

**F. Additional Areas for Consideration:**

We encourage the NEPA Task Force to look for ways to make sure that activity done to satisfy NEPA (such as an EIS) are focused and do what is required by NEPA – not beyond. For example, a very practical matter when developing an EIS is the scope of what is examined in the EIS. Agencies need to set boundaries as to what really needs to be examined in developing the EIS. The EIS has several purposes, among which primary ones are to:

1. Determine the environmental impact of the proposed actions.
2. Determine the adverse environmental effects which cannot be avoided should the proposal be implemented.
3. Examine environmental impacts of the alternatives to the proposed actions.
4. Look at the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.

Thus purpose of the EIS is not to fully research out and study every issue that arises; instead it is to develop environmental information that can be incorporated into the decision-making. The purpose of NEPA is to incorporate environmental considerations into the decision-making process. There is no requirement within NEPA that every environmental problem be totally resolved. Nor does NEPA require that consideration for the environment be the *primary* factor in the agency decision-making process. NEPA does require that environmental impacts be considered in the decision making process. Thus, for the example being described (preparing an EIS), the scoping process for the project should define what needs to be examined. The decision making process, not environmental studies should be the driver and focus of the studies and work.

We appreciate the opportunity to submit these comments. Please call me at 208.389.7365 if you have any questions or wish to discuss these comments.

Sincerely,

Alan L. Prouty  
Director Environmental & Regulatory Affairs

c:  
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